



New Motor Vehicle Board

In-Site

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04.1 Edition



Glenn E. Stevens, President

A 2003 MESSAGE FROM PRESIDENT GLENN STEVENS

For the New Motor Vehicle Board, the year 2003 has been challenging. I am proud to say that in the face of unprecedented and significant changes in both the laws affecting the Board's jurisdiction, and clarifications of laws governing the Board's jurisdiction, we have shown resiliency in adapting as needed. All the while, the Board has not lost sight of its mission and vision to serve the New Motor Vehicle Industry of California. I am proud to serve as the President of this Board.

This year saw the passage of legislation placing the recreational vehicle segment of the motor vehicle industry within the Board's jurisdiction. Anticipating this possibility, the Board formulated planning strategies prior to the passage of

this new law. I am pleased to report that the Board and the recreational vehicle segment are continually meeting and it is

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PASSAGE OF SB 248 BRINGS RECREATIONAL VEHICLES WITHIN NMVB JURISDICTION

The New Motor Vehicle Board welcomes the recreational vehicle segment of the motor vehicle industry into its jurisdiction. This change is the result of the successful passage of SB 248, a bill sponsored by the California Recreation Vehicle Dealers Association (CalRVDA).

Skip Daum, Executive Director of CalRVDA, states, "The passage of our sponsored legislation, SB

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THE NMVB WELCOMES CALIFORNIA'S NEW GOVERNOR ARNOLD SCHWARZENEGGER

The New Motor Vehicle Board extends a warm and hearty congratulations to Arnold Schwarzenegger, California's new Governor, and his appointments of Sunne Wright McPeak as the Secretary of Business, Transportation and Housing Agency and Chon Gutierrez as Director of the Department of Motor Vehicles.



THIRD ANNUAL NMVB INDUSTRY ROUNDTABLE FAST APPROACHING

The third annual NMVB Industry Roundtable is fast approaching. Each year, attendance steadily grows with representation expected this year from the automotive, trucking, motorcycle and recreational vehicle industries. The Roundtable shall take place on April 21, 2004 in Indian Wells, California.

NEW SECRETARY OF THE BUSINESS, TRANSPORTATION AND HOUSING AGENCY APPOINTED

Sunne Wright McPeak was appointed Secretary of the Business, Transportation and Housing Agency by Governor Schwarzenegger on November 12, 2003. Secretary McPeak previously served as the President and CEO of the Bay Area Council, the President and CEO of the Bay Area Economic Forum, and was a Supervisor for the Contra Costa County Board of Supervisors.

NEW DIRECTOR OF DMV APPOINTED

Chon Gutierrez was appointed Director of the Department of Motor Vehicles by Governor Schwarzenegger on November 19, 2003. Mr. Gutierrez previously served as the Chief Assistant Secretary of State, and the Chief Financial Officer of the Business, Transportation & Housing Agency. He also worked at the California State Lottery, Youth & Adult Correctional Agency, and the Department of Finance.

IN-SITE



State of California
Arnold Schwarzenegger, Governor

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Chon Gutierrez, Director

New Motor Vehicle Board

Officers

Glenn E. Stevens,
President
David W. Wilson,
Vice-President

Members

Robert Branzuela
Robert T. (Tom) Flesh
David C. Lizárraga
Haig Papaian
Andy Robles
Sushil K. Sharma
Alan J. Skobin



*Business, Transportation
and Housing Agency*
Sunne Wright McPeak, Secretary

Executive Director

Tom Novi

General Counsel

Howard Weinberg

Senior Staff Counsel

Robin P. Parker

Staff Counsel

Cara M. Peralta

Questions or comments: Editor, nmvp@pacbell.net



Sushil K. Sharma

THE NMVB WELCOMES PUBLIC MEMBER SUSHIL K. SHARMA

Sushil K. Sharma, Public Member, was appointed to the Board on November 18, 2003, by Senator John L. Burton, Chairman of the Senate Rules Committee. Mr. Sharma is the Chief Executive Officer and Owner of the Gaylord Indian Restaurant in Embarcadero Center in San Francisco. He has served as a Commissioner on the California World Trade Commission and is a member of the California Restaurant Association, the National Federation of Indo American Associations, the San Francisco Convention and Tourist Bureau, the Federation of Indo American Associations, the American Heart Association, the Red Cross Association, the Danville Wheelchair Foundation, the India Literacy Project, the British Chamber of Commerce, and the Indo American Chamber of Commerce. He earned a Bachelors of Science degree at New Delhi University in New Delhi, India, and received training in hotel management with the Four Seasons Hotel Group in Hamburg, Germany. Mr. Sharma is fluent in German, Arabic, Hindi, Punjabi, and English and currently studies Spanish. He resides in Fremont with his wife and two daughters. His term expires January 15, 2006.

NMVB WELCOMES DEALER MEMBER ANDY ROBLES

Anastacio "Andy" Robles, Dealer Member, was appointed to the Board in November 2003 by former Governor Gray Davis. Mr. Robles is the Vice President and General Manager of Thousand Oaks Toyota and Thousand Oaks Hyundai and has over 25 years experience in the automobile industry. Mr. Robles has been with Thousand Oaks Toyota over 24 years and opened Thousand Oaks Hyundai in June 2000. He has been a recipient of Toyota's President Award on nine occasions and is a past member of Toyota's Leadership Board. He has also served as a Dealer Council

Representative for Toyota's Los Angeles Region. He is presently serving as Director for Southern California Toyota Dealers Advertising Association and is a member of N.A.D.A. and A.I.A.D.A. He supports numerous local schools with financial support for their sports, academic, and extracurricular activities. Mr. Robles and his wife reside in Simi Valley, where he has been a resident for over 23 years. His term will expire on January 15, 2006.



From left: David Lizarraga, Haig Papaian and David Wilson

NMVB WELCOMES PUBLIC MEMBER HAIG PAPAIAN

Haig Papaian, Jr., Public Member, was appointed to the Board by former Governor Gray Davis, in November 2003. Mr. Papaian is the director and a shareholder of the Commerce Casino. From 1971 to 1980, Mr. Papaian was responsible for the operation of the family business, Haig's Disposal. In 1980, Mr. Papaian became president and owner of Haig & Haig, Inc., and remained so until its sale in 1997. Mr. Papaian currently resides in Los Angeles County. His term will expire on January 15, 2006.

PUBLIC MEMBER ANGELO QUARANTA LEAVES THE BOARD

The NMVB wishes a fond farewell to Public Member Angelo Quaranta. Mr. Quaranta resigned from the Board in anticipation of an appointment by Senator John Burton to the State Contractors License Board. Upon resigning, he conveyed how much he enjoyed his tenure on the Board and expressed his appreciation to the Board and Staff. Mr. Quaranta's dedication and humor will be missed.

President's Message Continued from Page 1

expected that this new class of cases and litigants will be handled as seamlessly and with the same efficiency and dedication as is currently extended to the automobile, trucking and motorcycle segments. Welcome to the Board, Recreational Vehicle Dealers and Manufacturers!

Judicially mandated changes to the Board's jurisdiction were made by the Court of Appeal decision in *Mazda Motor of America, Inc. v. California New Motor Vehicle Board; David J. Phillips Buick-Pontiac, dba David J. Phillips Mazda, Real Party in Interest*. In that case, the appellate court clarified the current law regarding the Board's ability to hear petitions. The court limited our jurisdiction to exclusively resolving disputes between non-licensee individuals and dealer licensees, when relief is requested under *Vehicle Code* section 3050(c)(2). Immediately upon hearing of the *Mazda* decision, both the Board and its attorneys began working on new policies to implement the mandates of the Court of Appeal.

The Board, through its staff, is continuing to accomplish the perpetual goal of staying abreast of current industry issues in an effort to serve its constituency as efficiently and effectively as possible. I am proud to be a

part of this effort. In keeping with our cutting edge efforts, the Board presented its Second Annual Industry Roundtable. This event was extremely successful, attracting more participants from automobile manufacturers than during last year's inaugural event. Given its continued success, the Third Annual Industry Roundtable is currently being planned, and even more automobile manufacturer representatives will be in attendance.

The Board is keenly aware of the impact on the sale of motor vehicles in the state through on-line facilitators and brokers and in keeping with the times, invited the Vice President of E-Bay Motors, the largest automotive sales site on the Internet, to brainstorm industry and dealer concerns about licensing issues, and to reach a consensus.

I am also pleased to report the Board's fiscal condition is sound, in light of the State's current fiscal crisis. While seeking new ways to be efficient, the Board developed creative avenues to cut costs while still remaining responsive to the motor vehicle industry which we serve. Some of our improvements include ongoing efforts to improve operations, a streamlined document retention policy, and the purging of thousands of obsolete documents and files, thus eliminating the need for additional and costly storage and document management. The Board also reduced costs and improved service by promoting settlement of disputes, and by utilizing its existing staff counsel for Mandatory Case Settlement Conferences.

I have greatly enjoyed my year as President of the New Motor Vehicle Board, and look forward to continuing my service to the industry with my continued energy and participation in Board events.

ACTIVE NMVB CASES

<u>Vehicle Code Section</u>	<u>Active</u>
3060 Termination/Modification	14
3062 Establishment/Relocation	14
3064 Delivery and Preparation	0
3065 Warranty Reimbursement	1
3065.1 Franchisor Incentive	1
TOTAL PROTESTS:	30
3050(c) PETITIONS	0
3050(b) APPEALS	0
TOTAL CASES:	30

REVENUE

NEW MOTOR VEHICLE DEALER Annual Fee:	\$ 235,431.00
NEW MOTOR VEHICLE BOARD Filing fees:	6,400.00
NEW MOTOR VEHICLE BOARD Manufacturer/Distributor Annual fee:	774,805.79
Document Requests:	2,904.80
Arbitration Cert. Program Reimbursement	3,937.84
July 2003 - November 2003	\$ 1,023,479.43

SB 248 Continued from Page 1

248, was a major step forward in stabilizing the dealer-manufacturer franchise relationships in the burgeoning RV industry. Having access to an in-state dispute resolution forum, experts at the NMVB



Skip Daum

assisting in the process, and a proven method of bringing the parties together gives dealers, manufacturers and consumers an equitable and efficient system to iron out differences. The CalRVDA Board of Directors closely examined the Board's actions prior to introducing this legislation and we believe that its rulings will have a very positive sentinel effect on our industry. We anticipate a smooth transition into the NMVB's jurisdiction and greatly appreciate the staffs' instant helpfulness in this regard."

The New Motor Vehicle Board currently has jurisdiction over franchise disputes within the automotive, trucking, motorcycle and recreational vehicle industries.

LONG TIME INDUSTRY ATTORNEY A. ALBERT SPAR PASSES AWAY

The New Motor Vehicle Board is saddened by the passing of A. Albert Spar, Esq. Mr. Spar, 87, worked as an attorney for 60 years. He practiced many years within the automotive industry, and in recognition of his dedication, the Board presented Mr. Spar with a New Motor Vehicle Board Resolution in August 2000.

Mr. Spar is survived by his wife, June Spar; daughter, Sue Habuni; son, Michael Spar; four grandchildren; and one great-grandchild.

SCHEDULED HEARINGS

2-10-04 9:30 am

PR-1885-03 JPS Corporation, dba Kia Superstore v. Kia Motors America (Motion to Dismiss)

2-18-04 10:00 am

PR-1863-03 Louis G. Miller, Inc., dba Culver City Nissan v. Nissan North America, Inc. (10 day Merits Hearing)

2-23-04 10:00 am

PR-1869-03 Airport Marina Ford v. Ford Motor Company (consolid. PR-1870-03, PR-1871-03, PR-1872-03) (Merits Hearing)

3-1-04 10:00 am

PR-1772-01 Melrose Ford v. Ford Motor Company (10 day Merits Hearing)

4-5-04 10:00 am

PR-1880-03 & PR-1881-03 Ray Fladeboe Lincoln Mercury, Inc. Fladeboe Automotive Group, Inc. v. American Isuzu Motors, Inc. (5 day Merits Hearing)

4-19-04 10:00 am

PR-1843-03 R & G Toyota v. Toyota Motor Sales (5 day Merits Hearing)

Dates are subject to change and cases may settle prior to hearing

PENDING COURT CASES



DAUGHERTY LINCOLN MERCURY, INC., v. NEW MOTOR VEHICLE BOARD; FORD MOTOR COMPANY LINCOLN MERCURY DIVISION, Real Party In Interest

**Sacramento Co. Sup. Court No. 03CS00861
Hon. Trena H. Burger-Plavan Dept. 26
Attorney for Daugherty Lincoln Mercury, Inc.: Michael Sieving
Attorney for Ford Motor Company: Cranston Williams**

Daugherty alleges that the Board abused its discretion in the Decision to overrule Protest No. PR-1798-02. The Board will not participate in this writ proceeding, as there is no significant state or Board interest at issue.



UNIVERSITY FORD, INC., dba BOB BAKER FORD v. NEW MOTOR VEHICLE BOARD; FORD MOTOR COMPANY, Real Party In Interest

**Sacramento Co. Sup. Court No. 03CS01227
Hon. Lloyd G. Connelly Dept. 33
Attorney for University Ford, Inc., dba Bob Baker Ford: Michael Sieving
Attorney for Ford Motor Company: Cranston Williams**

Baker alleges the Board had no jurisdiction to hear the petition pursuant to the outcome of *Phillips Mazda*, in the alternative, alleges the Board did not "consider or address" various evidentiary matters, and lastly, seeks an independent standard of review of the Board's decision. The Board will not participate in this writ proceeding, as there is no significant state or Board interest at issue.



MICHAEL CADILLAC, INC., dba MICHAEL VOLKSWAGEN, Petitioner v. NEW MOTOR VEHICLE BOARD, Respondent;

VOLKSWAGEN OF AMERICA, INC., Real Party in Interest

**Sacramento Co. Sup. Court No. 03CS01129
Hon. Raymond M. Cadei Dept. 25
Attorney for Michael Cadillac, Inc., dba Michael Volkswagen: Michael Flanagan
Attorney for Volkswagen of America, Inc.: Allen Resnick**

Michael Volkswagen alleges the Board's Decision was invalid because the Board committed a prejudicial abuse of its discretion, and did not proceed in a manner required by law. Therefore, the findings do not support the Decision, the findings are not supported by the evidence, and Michael Volkswagen does not have a plain, speedy or adequate remedy under the law. Lastly, Michael Volkswagen seeks an independent standard of review of the Board's June 17, 2003, Decision. The Board will not participate in this writ proceeding, as there is no significant state or Board interest at issue.



LONG BEACH HONDA, Petitioner v. NEW MOTOR VEHICLE BOARD, Respondent; AMERICAN HONDA MOTOR COMPANY, Real Party In Interest

**Sacramento Co. Sup. Court No. 03CS01595
Hon. Raymond M. Cadei Dept. 25
Attorney for Long Beach Honda: Michael Flanagan
Attorney for American Honda Motor Company: Wallace M. Allan**

Long Beach Honda alleges the Board's Decision was invalid because the Board committed a prejudicial abuse of its discretion by failing to proceed in a manner required by law. It is further alleged that the findings do not support the Decision, the findings are not supported by the evidence, and that Long Beach Honda does not have a plain, speedy or adequate remedy under the law. An independent standard of review of the Board's September 18, 2003, decision is requested. The Board will not participate in this writ proceeding, as there is no significant state or Board interest at issue. A hearing date has been set for February 27, 2004.



MEDIATION SPOTLIGHT

Mediation Services
Representative
Heather Collins

On September 15, 2003, the New Motor Vehicle Board's Consumer Mediation Services Program received a request for mediation from a consumer who was having problems with her 2003 Dodge Durango. The consumer, citing problems with the vehicle's interior cooling system and suspension system, asked to return the vehicle and be allowed out of her lease. The case was assigned to Senior Mediation Analyst Heather Collins.

Ms. Collins sent letters to the dealership and DaimlerChrysler requesting information on the status of the repairs to the consumer's vehicle. On October 14, 2003, DaimlerChrysler responded to the Board's letter of inquiry and informed Ms. Collins that they were willing to address any warranty-related concerns with the vehicle. They noted that they would provide the consumer with a loaner vehicle while the Durango was being repaired; however, they also stated that the vehicle

was operating as designed. These responses were forwarded to the consumer.

The consumer immediately replied to the letter from the dealership, disputing several points in their letter. She explained that she had subsequently moved, and as such, took the vehicle to a different dealership. That dealership found a freon leak and verified that the vehicle's suspension was indeed in need of repair. It took nearly three weeks for these repairs to be completed.

This new information was relayed to DaimlerChrysler. On November 12, 2003, DaimlerChrysler offered to repurchase or replace the vehicle. The consumer chose to have the vehicle repurchased.

On December 12, 2003, the consumer informed Ms. Collins that the repurchase had taken place and that she bought a Mercury Mountaineer with the proceeds. She thanked Ms. Collins for all of her help.



NMVB STAFF COUNSEL MARRIES

The New Motor Vehicle Board wishes to congratulate Staff Counsel Cara O'Neill-Stewart, now Cara Peralta, on her recent marriage to Mateo Peralta. The happy couple was married on November 9, 2003, in Oahu, Hawaii, where they also spent their honeymoon. We wish them happiness and success in their new life together.

MEDIATION STATISTICS

Mediation Phone Calls Received	2,720
Mediation Request Forms Sent to Consumers	778
Cases Filed	254

July 2003 through December 2003

You can reach Mediation Services Staff at
(916) 445-1888

UPCOMING BOARD MEETINGS

General Board Meeting
March 9, 2004
Sacramento



**Industry Roundtable
Special Meeting**
April 21, 2004
Indian Wells

General Board Meeting
April 22, 2004
Indian Wells

Board Meeting dates are subject to change. A meeting agenda with time and location details is mailed 10 days prior to the meeting to all interested parties.

HITCHCOCK RECEIVES GOOD SCOUT AWARD

On October 29, 2003, former NMVB President Fritz Hitchcock received the Good Scout Award at the 2003 Automotive Industry Award Luncheon conducted by the Orange County Council, Boy Scouts of America. Fritz was recognized for his “outstanding community service” and “the respect and esteem in which he is held by his colleagues.” The Award Luncheon was held immediately prior to the opening of the annual California International Auto Show at the Anaheim Convention Center.

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